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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 CHRISTOPHER LEON SMITH,

10 Plaintiff,

11 v.

12 PIERCE COUNTY CORRECTIONAL
13 FACILITY, *et al.*,

14 Defendants.
15

CASE NO. C09-5269FDB

ORDER

16 This Civil Rights Action has been referred to United States Magistrate Judge J. Richard
17 Creatura pursuant to 28 U.S.C. § 636(b)(1)(A) and 636 (b)(1)(B), and Local Magistrate Judge's
18 Rule MJR3 and MJR4.

19 The Clerk's office has received two packets of pleadings from Mr. Smith which they had
20 trouble interpreting. The packets are dated as having been received August 14, 2009, and August
21 26, 2009. The court has examined the documents.
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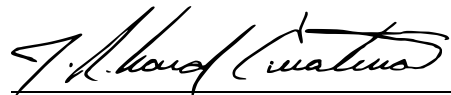
23 The first packet contains the documents Mr. Smith apparently wishes the court to
24 consider when it rules on a pending motion to dismiss. The clerk's office is directed to file this
25 packet as Mr. Smith's response to the pending motion to dismiss. Many of these documents are
26 not identified or in sufficient form to warrant consideration. Plaintiff is reminded that the court

1 will only consider admissible evidence in response to the motion to dismiss and the failure to
2 follow court procedures when filing documents may result in those materials not being
3 considered by the court. Plaintiff is invited to file any other appropriate materials in response to
4 the motion to dismiss in accordance with the court rules. The motion to dismiss, (Dkt. # 18), has
5 been re-noted for September 25, 2009. This gives the defendants adequate time to file a reply if
6 they so choose.
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8 That same packet also contains another request for appointment of counsel. The court
9 had denied plaintiff's request for appointment of counsel (Dkt # 25). To the extent the packet
10 contains another request for appointment of counsel, the motion is DENIED.

11 The second packet, received August 26, 2009, appears to be a supplement to the
12 complaint that attempts to add claims against Captain Spencer, Lieutenant Ginga, and Sergeant
13 Pero regarding plaintiff's classification when he returned to the jail. Plaintiff alleges that he was
14 placed in segregation on his return to the jail in retaliation for this action being filed.
15 Fed. R. Civ. P 15 (a) gives plaintiff the ability to amend the complaint once as a matter of course
16 prior to an answer or responsive pleading being filed. A motion to dismiss is not considered a
17 responsive pleading. Therefore, the motion to amend to include supplemental claims is
18 GRANTED. The complaint received August 26, 2009, will be considered a supplement to the
19 original complaint. Defendants have thirty days to file an answer to the supplemental complaint
20 or any other appropriate responsive filing in accordance with the rules prior to that date.
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23 DATED this 31st day of August, 2009.

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26 J. Richard Creatura
United States Magistrate Judge